BILL ANALYSIS

Bill Number: Senate Bill 331 (As enacted)
Topic: Liquor Control, elimination of an exclusive tax for off-premises retailers.
Sponsor: Senator Joe Hune
Co-Sponsors: Senators Pappageorge, Brandenburg and Smith
Committee: Senate and House Committees on Regulatory Reform

Date Introduced: April 14, 2011

Date Enrolled: September 27, 2011

Date of Analysis: September 29, 2011

Position: The Department supports SB 331 as a means of leveling the playing field between bars and restaurants and off premises retailers in the purchase of liquor

Problem/Background:

Currently, off-premises retailers pay a 1.85% tax per bottle for liquor they purchase from the Liquor Control Code that is not paid by on-premises retailers. This tax is in addition to all other taxes imposed by law. The problem the bill seeks to address stems from the passage of the "catering law" earlier this session, being PA 20 of 2011. Under the newly revised law, on-premises licensees that are also licensed caterers can use their own liquor when catering events and no longer have to purchase the liquor from off-premises retailers. Off-premises retailers believe they could stand to lose a substantial percentage of their business to on-premises licensees when it comes to catering events. As a way for the retailers to offset that potential loss, they are seeking to eliminate the 1.85% tax that is exclusive to them.

Description of Bill:

The bill repeals Section 1205 of the LCC which imposes an exclusive 1.85% tax on the retail selling price of spirits for off-premises consumption. The specific tax on the retail selling price of spirits for off-premises consumption was initially set at 1% but was increased to 1.85% in 1978. The initial tax of 1% was created mainly to fund grants that are provided to local centers for the treatment of people addicted to alcohol and other drugs. It was increased to 1.85% to pay for a new treatment referral program for people identified as intoxicated in public.

Currently Michigan imposes specific taxes on spirits purchased by on-premises retailers equaling 12%, and imposes taxes totaling 13.85% on spirits purchased for off-premises consumption.

These taxes are distributed as follows: 4% credited to the General Fund, 4% credited to the School Aid Fund, 4% credited to the State Convention Facility Development Fund, and the additional 1.85% to the Liquor Purchase Revolving Fund.

The following are the estimated price reductions from eliminating the 1.85% tax for a 750 ml bottle of some popular spirits:

- Captain Morgan Spiced Rum, $0.24 (Current minimum shelf price of $14.98)
- Jim Beam - $0.28 (Current minimum shelf price of $16.98)
- Dewar's White Label - $0.37 (Current minimum shelf price of $22.95)
- Crown Royal - $0.41 (Current minimum shelf price of $24.95)
- Absolut - $0.44 (Current minimum shelf price of $26.99)

Summary of Arguments

Pro:

- Levels the playing field between bars and restaurants and off premises retailers in the purchase of liquor.

- It is wrong to single out one class of retail licensee over others in the absence of a demonstrable justification for the disparate treatment.

- The unique tax of the current law likely tends to cause off-premises licensees to lose a percentage of their business to on-premises licensees because caterers no longer have to purchase spirits from off-premises licensees.

- Eliminating the off-premises tax could lead to increased liquor sales (particularly in areas along the state border).

Con:

- Some observers believe that increasing the availability or consumption of alcohol leads to an increase in alcohol-related problems for society. To the extent reducing alcohol prices leads to increased consumption, they believe lower prices and taxes should be avoided.

Fiscal/Economic Impact

(a) Department

Budgetary: The 1.85% tax generates $14.0 million annually and is credited to the Liquor Purchase Revolving Fund (LPRF), which the LCC uses to replenish, maintain, warehouse, and distribute liquor stock throughout the state and for operations to administer the Act. Under Section 221 of the Act (MCL 436.1221) and Section 435 of the Management and Budget Act (MCL 18.1435), the "net income" from the LPRF at the end of a fiscal year is transferred to the General Fund. Given this flow of funds, by eliminating the 1.85% specific tax, the bill would effectively reduce annual GF/GP Revenue by $14.0 million (offset by any increase in liquor sales attributable to the lower retail purchase price).

Revenue: Under the pass through mechanism of Section 435 of the Management and Budget Act the $14 million (off set by any additional tax revenue associated with increased liquor sales) is transferred to the GF/GP.

Comments: Not expected to impact LCC operations.

(b) State

Budgetary:

Revenue: Expected reduction of GF/GP funding by $14 million annually, could be reduced through increased liquor sales in the state.

Comments:

(c) Local Government

Comments: N/A

Other State Departments:

The potential fiscal implications of the bill could be of interest to the DTMB, yet the true fiscal impact to state GF/GP revenue is uncertain given the bill's potential for increasing liquor sales.

Any Other Pertinent Information:

- Michigan Restaurant Association supports the bill.
- Michigan Food and Beverage Association supports the bill.
- Associated Food and Petroleum Dealers, Inc. supports the bill.
- Michigan Grocers Association supports the bill.
- Michigan Licensed Beverage Association is neutral on the bill.
- Michigan Alcohol Policy opposes the bill.
- Montcalm Coalition to Prevent Underage Drinking opposes the bill.
- Michigan Council on Alcohol Problems opposes the bill.

Administrative Rules Impact:

No impact.